

# COMMITTEE ON HOMELAND SECURITY AND PROPERTY RIGHTS

*Representative Warde V. Nichols, Chairman  
Representative Doug Clark, Vice-Chairman  
René Guillen, Legislative Research Analyst*



*	Strike-everything Amendment
[E]	Emergency Clause
[P 105]	Proposition 105 Clause
[P 108]	Proposition 108 Clause

Bill	Chapter	Short Title	Page
HB 2091	8	*parcel splits; taxing districts .....	97
HB 2467	275	*public programs; eligibility.....	97
HB 2503	82	homeowners' associations; cautionary signs .....	97
HB 2765	18	national guard; civil liability .....	97
HB 2779	279	fair and legal employment act .....	97
SB 1042	23	notification; breach of security system .....	99
SB 1062	228	homeowners' associations; for sale signs .....	99
SB 1254	288	real property; signage; solar devices.....	99
SB 1258	101	emergency; confiscation of weapons; prohibition.....	99
SB 1326	197	*concurrent jurisdiction; Barry Goldwater range .....	99
SB 1639	177	notaries; citizenship requirement .....	99

**HB 2091 – Chapter 8 – \*parcel splits; taxing districts**

Requires that after November 1, 2007, all special taxing district formations must include proposed boundaries containing only entire parcels.

**HB 2467 – Chapter 275 – \*public programs; eligibility**

Requires any person applying for a state administered public program to provide documentation demonstrating lawful presence, if required for program eligibility.

**HB 2503 – Chapter 82 – homeowners' associations; cautionary signs**

Specifies that a planned community cannot prohibit the use of cautionary signs regarding children, under certain stipulations.

**HB 2765 – Chapter 18 – national guard; civil liability**

Grants members of the National Guard the same immunity protection as public employees and law enforcement in any civil action for certain acts.

**HB 2779 – Chapter 279 – fair and legal employment act**

Contains provisions relating to identity theft, license eligibility of employers in Arizona, verification of the employment eligibility of employees and establishes the eight-member Employer Sanctions Legislative Study Committee. Appropriates \$2,600,000 from the state General Fund (GF) in FY 2007-08 for carrying out these provisions.

***Identity Theft***

- Modifies *aggravated taking the identity of another person or entity* by decreasing the amount of identities taken from five to three or more persons.
- Stipulates that a person who knowingly commits identity theft with the intent to obtain employment commits *aggravated taking the identity of another person or entity*.

***Licensing Eligibility***

- Prohibits an employer from intentionally employing an unauthorized alien or knowingly employing an unauthorized alien.
- Requires the superior court to expedite any action under the false swearing provisions, including assigning the hearing at the earliest date.
- Requires the attorney general (AG) or county attorney, upon receipt of a complaint that an employer allegedly intentionally or knowingly employs an unauthorized alien, to investigate the complaint. *The investigating body is required to verify the work authorization of the alleged with the federal government.*
- After an investigation determines the complaint to be valid, requires the investigating body to:
  - Notify U.S. Immigration and Customs Enforcement of the unauthorized alien.
  - Notify the local law enforcement agency of the unauthorized alien.
  - If the investigation was completed by the AG, then the AG must notify the appropriate county attorney to bring an action against the employer.
- Prohibits the county attorney from prosecuting violations occurring before January 1, 2008.

- For a first violation of *knowingly* employing an unauthorized alien, requires the court to order the employer to terminate the employment of all unauthorized aliens and to suspend the appropriate licenses unless the employer files a signed sworn affidavit with the county attorney within three business days. If the affidavit is filed, the licenses are reinstated. If the affidavit is not filed the court may order the suspension of licenses, not to exceed ten business days. Violators are subject to a three-year probationary period.
- For a first violation of *intentionally* employing an unauthorized alien, requires the court to order the employer to terminate the employment of all unauthorized aliens and to suspend the appropriate licenses for a minimum of ten business days. Violators are subject to a five-year probationary period.
- Stipulates when suspending a license, the court shall base its decisions on the following:
  - The number of unauthorized aliens employed by the employer.
  - Any prior misconduct by the employer.
  - The degree of harm resulting from the violation.
  - Whether the employer made good faith efforts to comply with any applicable requirements.
  - The duration of the violation.
  - The role of the directors, officers or principals of the employer in the violation.
  - Any other factors the court deems appropriate.
- Requires employers that have been placed on probation to file quarterly reports with the county attorney of new employees hired at the location where the unauthorized alien performed work.
- For a second violation during the probationary period, requires appropriate licenses to be permanently revoked.
- Specifies that proof of verifying the employment authorization of an employee through the Basic Pilot Program (BPP) creates a rebuttable presumption that an employer did not knowingly employ an unauthorized alien.
- Stipulates that an employer that has complied in good faith with the requirements of 8 U.S.C § 1324b establishes an affirmative defense that the employer did not intentionally or knowingly employ an unauthorized alien.
- Specifies that filing a false and frivolous complaint against an employer under these provisions is a class 3 misdemeanor.

#### ***Verification of Employees***

- After December 31, 2008, requires every employer to utilize the BPP to verify employment eligibility.

#### ***Miscellaneous***

- On or before October 1, 2007, the Department of Revenue (DOR) is required to notify employers that are required to withhold tax of the new law, its requirements and how to comply.
- Specifies that these provisions shall be known and cited as the “*Legal Arizona Workers Act.*”

***Appropriations***

- Appropriates \$100,000 from the GF in FY 2007-08 to the AG for enforcing any immigration related matters and the provisions of the bill.
- Appropriates \$2,430,000 from the GF in FY 2007-08 to the Arizona Department of Administration (ADOA) for distribution to county attorneys. The monies provided to ADOA are to be distributed as follows.
  - \$1,430,000 to a county attorney in a county with 1,500,000 persons or more.
  - \$500,000 to a county attorney in a county with at least 800,000 persons but less than 1,500,000.
  - \$500,000 to be split, as equally as possible, among the county attorneys of counties with populations less than 500,000 persons.
- Appropriates \$70,000 from the GF in FY 2007-08 to DOR for the employer notice.

**SB 1042 – Chapter 23 – notification; breach of security system**

Removes the definition of law enforcement agency, expanding current laws related to security breaches.

**SB 1062 – Chapter 228 – homeowners' associations; for sale signs**

Denies an association the authority to prohibit the indoor or outdoor display of a for sale sign and specifies the sign cannot exceed 18 by 24 inches and the sign rider cannot exceed 6 by 24 inches.

**SB 1254 – Chapter 288 – real property; signage; solar devices**

Denies a homeowners' association (HOA) the authority to revoke or modify the approval of a commercial sign once the sign has been previously approved by the HOA. States that an HOA cannot prohibit the installation or use of solar energy devices, but allows the HOA to adopt reasonable rules regarding their placement. Requires the court to award reasonable attorney fees and costs to the prevailing party in litigation relating to the HOA regulation of solar energy devices.

**SB 1258 – Chapter 101 – emergency; confiscation of weapons; prohibition**

Specifies that the Governor may not commandeer and utilize firearms or ammunition or firearms or ammunition components during a state of war emergency.

**SB 1326 – Chapter 197 – \*concurrent jurisdiction; Barry Goldwater range**

Through December 31, 2017, extends the list of lands granted concurrent criminal jurisdiction to include the Barry M. Goldwater Range.

**SB 1639 – Chapter 177 – notaries; citizenship requirement**

Requires a notary public to be a United States citizen or a legal permanent resident.